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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.)
)
FRANK LOUIS SMEDILE,)
)
Defendant.)

No. 3-06-70639 EDL

~~PROPOSED~~ ORDER AND STIPULATION
(1) VACATING JANUARY 17, 2007
HEARING AND SETTING MARCH 20,
2007 HEARING; AND (2) WAIVING TIME
UNDER RULE 5.1 AND EXCLUDING
TIME FROM JANUARY 17, 2007 TO
MARCH 20, 2007 FROM THE SPEEDY
TRIAL ACT CALCULATION (18 U.S.C. §
3161(h)(8)(A))

With the agreement of the parties, and with the consent of the defendant, the Court enters this order (1) vacating the January 17, 2007 preliminary hearing date and scheduling a new preliminary hearing date of March 20, 2007 at 9:30 a.m.; (2) documenting the defendant's waiver of time limits under Federal Rule of Criminal Procedure 5.1; and (3) documenting the exclusion of time under the Speedy Trial Act, 18 U.S.C. § 3161(h)(8)(A), from January 17, 2007 to March 20, 2007. The parties have agreed, and the Court finds and holds, as follows:

1. The defendant waived the time limits for a preliminary hearing under Federal Rule of Criminal Procedure 5.1. Failure to grant the requested continuance would unreasonably deny the defendant and the government the reasonable time necessary for effective preparation, taking

1 into account the exercise of due diligence. Failure to grant the requested continuance would
2 unreasonably deny government counsel reasonable time necessary for effective preparation
3 because there has been a change of counsel from AUSA Tracie Brown to SAUSA Tamara
4 Weber.

5 2. In addition, both defense and government counsel need to review the electronic
6 evidence in the case prior to charging the case and negotiating a possible disposition. Although
7 the government was expecting its forensic analysis to be completed by the currently scheduled
8 preliminary hearing date of January 17, 2007, the government still has not received reports from
9 the forensic analysis that is to be done on electronic evidence seized from the Defendant at the
10 airport and via search warrant at his home. The parties expect to review the electronic discovery
11 and discuss the possibility of a pre-indictment resolution of the case.

12 3. The defendant has agreed to an exclusion of time under the Speedy Trial Act. Failure to
13 grant the requested continuance would unreasonably deny both government and defense counsel
14 reasonable time necessary for effective preparation, taking into account the exercise of due
15 diligence, and would deny the defendant and the government continuity of counsel.

16 4. Given these circumstances, the Court found that the ends of justice served by excluding
17 the period from January 17, 2006 to March 20, 2007, outweigh the best interest of the public and
18 the defendant in a speedy trial. See 18 U.S.C. §3161(h)(8)(A).

19 5. Accordingly, and with the consent of the defendant, the Court ordered that the period
20 from January 17, 2007 to March 20, 2007 be excluded from Speedy Trial calculations under 18
21 U.S.C. §3161(h)(8)(A) & (B)(iv).

22 6. The Court hereby vacates the January 17, 2007 preliminary hearing/arraignment date and
23 schedules a new preliminary hearing/arraignment date of March 20, 2007, at 9:30 a.m., before
24 the duty Magistrate.

25 ///

26 ///

1 IT IS SO STIPULATED.

2 DATED: _____

_____/s/
TAMARA WEBER
Special Assistant United States Attorney

5 DATED: _____

_____/s/
SETH CHAZIN
Attorney for FRANK LOUIS SMEDILE

7 IT IS SO ORDERED.

8
9 DATED: January 17, 2007

